

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD J. BOULIA

Application No. 09/619,178

MAILED

MAR 15 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences (BPAI) on March 6, 2006. A cursory review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

The Examiner's Answer mailed September 23, 2005, does not fully comply with the headings as set forth under 37 CFR § 41.37 (c). Notably, section "**(8) Evidence Relied Upon,**" lacks the relevant content required for this heading. The *Manual Of Patent Examining Procedure (MPEP)* § 1207.02(A)(8) (8th ed., Rev. 3, August 2005) states in-part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

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(8) *Evidence Relied Upon.* A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner states under section (8) in the answer that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." However, the examiner does rely upon patents to Erickson et al. (Erickson) (U.S. Patent No. 6,412,009 B1) in view of Inala et al. (Inala) (U.S. Patent No. 6,442,590 B1) in the 35 U.S.C. § 103(a) rejection of the claims on appeal presently before the BPAI. Therefore, these references should be listed under section (8) in the Examiner's Answer. Correction is required.

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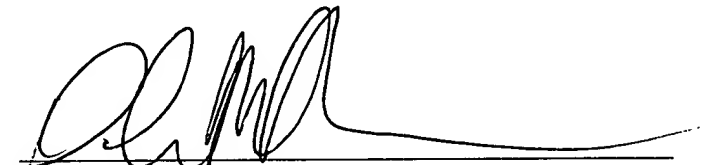
Accordingly, it is

ORDERED that the application is returned to the
Examiner:

- 1) to issue a revised Examiner's Answer that meets the
the requirements pertaining to section "(8) *Evidence Relied Upon*"
as outlined above; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


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